



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/751,159

Group Art Unit: 2623

Filing Date: December 28, 2000

Examiner: John Manning

Applicant: Marc P. Kaplan et. al.

Title: SYSTEM AND METHOD FOR DISTRIBUTING VIDEO WITH
TARGETED ADVERTISEMENTS USING SWITCHED
COMMUNICATION NETWORKS

Attorney Docket: 129250-002064/US

Customer Service Window

December 5, 2006

Randolph Building

401 Dulany Street

Alexandria, VA 22314

Mail Stop -APPEAL BRIEF-PATENT

**NOTICE REGARDING APPEAL BRIEF FEE & REQUEST FOR REFUND OR
CREDIT OF NOTICE OF APPEAL FEE**

Sir:

In connection with the filing of Applicants' Appeal Brief on December 5, 2006 the Applicants note that no appeal brief fee is believed due because this is the second appeal brief the Applicants have filed; the first brief having been withdrawn based on the Examiner's re-opening of prosecution.

More specifically, in accordance with MPEP 1208.02 and related regulations under 37 CFR 1.193 *et seq*, no fee is believed due in conjunction with filing of the Applicants' instant appeal brief.

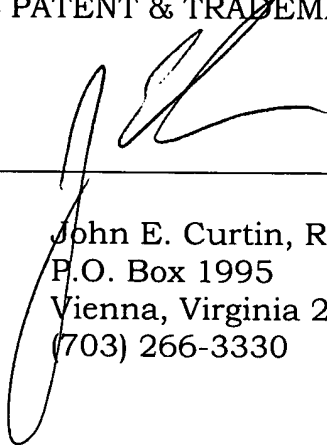
Further, Applicants respectfully request that the \$500 Notice of Appeal fee paid by Applicants on October 3rd, 2006 be refunded or credited to their Deposit Account, No, 50-3777.

For the sake of completeness, if the Commissioner determines an appeal brief fee is due, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional appeal brief fees required as well as fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.

By

A handwritten signature in black ink, appearing to read "John E. Curtin", is written over a horizontal line. The signature is stylized with a large loop at the end.

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APPLICANTS' BRIEF ON APPEAL

Sir/Madam:

The following is Applicants'/Appellants' ("Appellants") brief on appeal in the above-referenced application.



APPELLANT'S BRIEF ON APPEAL
U.S. Application No.: 09/751,159
Atty. Docket: 129250-002064/US

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APPELLANT'S BRIEF ON APPEAL

I. REAL PARTY IN INTEREST:

The real party in interest in this appeal is Lucent Technologies Inc. Assignment of the application was submitted to the U.S. Patent and Trademark Office and recorded at Reel 011595, Frame 0131.

II. RELATED APPEALS AND INTERFERENCES:

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS:

Claims 1-22 are pending in the application. Claims 1, 12 and 20 are written in independent form.

Claims 1-5, 10-15 and 19-22 have been finally rejected under 35 U.S.C. §102(e) based on U.S. Patent Application Publication No. 2005/0193410 to Eldering ("Eldering"), claim 22 has been finally rejected under 35 U.S.C. §103(a) based on Eldering, and claims 6-9 and 16-18 have been finally rejected under 35 U.S.C. §103(a) based on a combination of Eldering and U.S. Patent No. 5,544,161 to Bigham et al ("Bigham").

As described in more detail below claims 1-4, 7-14 and 17-22 are being appealed (claims 5, 6, 15 and 16 have been deleted subsequent to the Examiner's Advisory Action).

IV. STATUS OF AMENDMENTS:

An Amendment After Final ("AAF") was filed on September 1, 2006. In an Advisory Action dated September 19, 2006 ("Advisory") the Examiner stated that the AAF would not be entered because, among other things, it required more than "a cursory review by the Examiner". Without waiving their right to oppose this position, the Appellants subsequently submitted a Supplemental AAF on December 4, 2006 which further amended independent claims 1 and

12 to include features from intervening dependent claims. Accordingly, dependent claims 5, 6, 15 and 16 have been cancelled. As of the date of the filing of this brief the Examiner has not had an opportunity to respond to Appellants' Supplemental AAF. Entry of Appellants' Supplemental AAF is presumed, however, because the amendments therein: (a) place the application in condition for allowance; (b) do not raise any new issues regarding further search and/or consideration (i.e., the claims were revised to include features from dependent claims); (c) do not present any additional claims without canceling the corresponding number of finally rejected claims; and (d) places the application in better form for appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER:

(i) Overview of the Subject Matter of the Independent Claims

In general, the present invention is directed at the distribution of video that includes advertisements to targeted subscribers via ATM networks, where the video/advertisements are encapsulated in Internet Protocol ("IP") packets. The subscribers are targeted based on demographic characteristics.

Independent claim 1 reads as follows:

1. A method of delivering video via an ATM-based switched communication network comprising:

transmitting N program streams encapsulated in Internet Protocol (IP) packets from a head end node to one or more egress nodes via the switched network; and

inserting N x M advertisements into the N program streams at the one or more egress nodes for delivery to individual subscribers such that a particular subscriber receives a program stream with an advertisement that corresponds to demographic characteristics of that particular subscriber, where N and M are integers and where M represents the number of demographic groupings of the individual subscribers.

Support for claim 1 can be found, for example, on the following pages of the Specification: page 3, lines 1-29; page 4, lines 22-29; page 5, lines 3-12 and

15-23; page 5, line 25 to page 6, line 11 and page 6, lines 14-20 as well as Figure 1.

Independent claim 12 reads as follows:

12. In a video distribution network including a head end node, one or more egress nodes, a service management system, and an ATM-based switched communication network, wherein the head end node supplies N program streams encapsulated in Internet Protocol (IP) packets via the switched communication network to the one or more egress nodes, a system for delivering video comprising:

at an egress node,

a router for receiving the N program streams,

a storage element for storing advertisements, and

a splicer element for inserting N x M stored advertisements into the N program streams for delivery to individual subscribers, where N and M are integers and where M represents the number of demographic groupings of the individual subscribers,

wherein a particular subscriber receives a program stream with an advertisement that corresponds to demographic characteristics of that particular subscriber.

Support for claim 12 can be found, for example, on similar pages of the Specification as claim 1 as well as on: page 9, line 27 to page 12, line 10 and page 12, line 24 to page 14, line 13 as well as Figure 5.

Claim 20 reads as follows:

20. A system for delivering video via an ATM-based switched communication network comprising:

a head end node for transmitting one or more program streams encapsulated in Internet Protocol (IP) packets via the switched network; and

at least one egress node for receiving the one or more program streams, the egress node including a splicer element for inserting one or more advertisements into the one or more program streams at the egress node for delivery to individual subscribers, such that a particular subscriber receives a program stream with an advertisement that corresponds to demographic characteristics of that particular subscriber.

Support for independent claim 20 can be found on similar pages of the Specification as claims 1 and 12.

In order to make the overview set forth above concise, and thus useful to the members of the Board, the Appellants note that only some of the disclosure from the Specification that supports the independent claims has been included in the overview. Thus, the disclosure that has been included, or referred to, above only represents a portion of the total disclosure set forth in the Specification that supports the independent claims.

(ii) The Remainder of the Specification Also Supports the Claims

The Appellants note that there is additional disclosure that also supports the independent and dependent claims. Further, by presenting the disclosure above the Appellants do not represent that this is the only evidence that supports the independent claims nor do Appellants necessarily represent that this disclosure can be used to fully interpret the claims of the present invention. Instead, this disclosure is an overview of the claimed subject matter.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL:

Appellants seek the Board's review and reversal of the Examiner's rejection of claims 1-4, 10-14 and 19-22 under 35 U.S.C. §102(e) based on U.S. Patent Application Publication No. 2005/0193410 to Eldering ("Eldering"), claim 22 under 35 U.S.C. §103(a) based on Eldering, and claims 7-9, 17 and 18 under 35 U.S.C. §103(a) based on a combination of Eldering and U.S. Patent No. 5,544,161 to Bigham et al ("Bigham").

VII. ARGUMENTS:

A. The Section 102 Rejections of Claims 1-4, 10-14 and 19-22

Claims 1-4, 10-14 and 19-22 were rejected under 35 U.S.C. §102(e) as being unpatentable over Eldering. Appellants respectfully disagree for at least the following reasons.

Each of the claims of the present invention includes the feature of transmitting/supplying one or more program streams ("transmissions") encapsulated in Internet Protocol (IP) packets from a head end node to one or more egress nodes via an ATM switched network. Eldering does not disclose such transmissions.

As the Examiner admits in the Final Office Action (page 10), Eldering does not disclose the claimed transmissions over an ATM network.

Because Eldering does not disclose each of the features of claims 1-4, 10-14 and 19-22 it cannot anticipate these claims under 35 U.S.C. §102(e). Accordingly, Appellants respectfully request that the members of the Board reverse the decision of the Examiner that rejected claims 1-4, 10-14 and 19-22 and, instead, allow these claims.

B. The Section 103 Rejection of Claims 7-9, 17 and 18

Claims 7-9, 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Eldering in view of Bigham. Appellants respectfully disagree and traverse these rejections for at least the following reasons.

Because each of the rejected claims depends on either claim 1 or 12 they are patentable over the combination of Eldering and Bigham for the reasons set forth above with respect to claims 1 and 12 and because Bigham does not overcome the deficiencies of Eldering.

In more detail, though Bigham discloses an ATM network, it does not disclose or suggest the transmission of one or more program streams encapsulated in IP packets *from* a head end node to one or more egress nodes via an ATM-based switched network, as in the claims of the present invention. Rather, Bigham's transmissions appear to be over an ATM network *to* a head-end (e.g., broadcast consolidation section 100, see column 10, lines 54-55).

In sum, Appellants respectfully submit that the subject matter of claims 7-9, 17 and 18 would not have been obvious to one of ordinary skill in the art at the time the present application was filed from a reading of the disclosures of Eldering and Bigham.

Appellants respectfully request that the members of the Board reverse the decision of the Examiner that rejected claims 7-9, 17 and 18 and, instead, allow these claims.

C. The Section 103 Rejection of Claim 22

Claim 22 was rejected under 35 U.S.C. §103(a) as being unpatentable over Eldering in view of the Examiner's Official Notice. Appellants respectfully disagree for at least the following reasons.

Initially, Appellants note that claim 22 depends on claim 20 and is therefore patentable over the combination of Eldering and the Examiner's Official Notice for the reasons set forth above with respect to claim 20 and because the Examiner's Official Notice does not overcome the deficiencies of Eldering.

More specifically, the combination of Eldering with the Examiner's Official Notice does not disclose or suggest transmission of one or more encoded program streams encapsulated in IP packets for time-delayed delivery *from* a head end node to one or more egress nodes via an ATM-based switched network, as in the claims of the present invention. Accordingly, Appellants respectfully request that the members of the Board reverse the decision of the Examiner that rejected claim 22 and, instead, allow this claim.

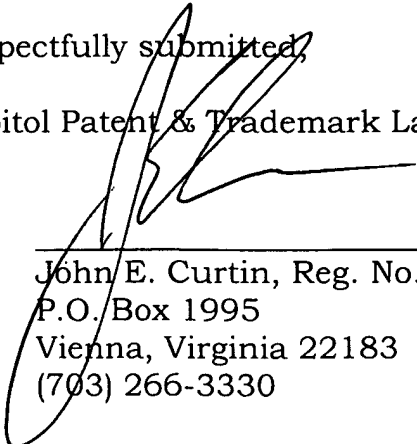
Conclusion:

For the reasons stated above, the Appellants respectfully request that the members of the Board reverse the Examiner's rejections and allow claims 1-4, 7-14 and 17-22.

Respectfully submitted,

Capitol Patent & Trademark Law Firm, PLLC

By:



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VIII. CLAIMS APPENDIX

LISTING OF CLAIMS

1. A method of delivering video via an ATM-based switched communication network comprising:

transmitting N program streams encapsulated in Internet Protocol (IP) packets from a head end node to one or more egress nodes via the switched network; and

inserting N x M advertisements into the N program streams at the one or more egress nodes for delivery to individual subscribers such that a particular subscriber receives a program stream with an advertisement that corresponds to demographic characteristics of that particular subscriber, where N and M are integers and where M represents the number of demographic groupings of the individual subscribers.

2. (Original) The method according to claim 1, further comprising the step of inserting splice points in the one or more program streams at the head end node.

3. (Original) The method according to claim 2, wherein inserting one or more advertisements comprises splicing an advertising stream with a program stream, wherein the advertising stream includes the one or more advertisements.

4. (Original) The method according to claim 3, wherein the step of splicing further comprises:

responsive to a command to begin splicing, identifying a splice point in the advertising stream;

buffering frames after the splice point in the advertising stream;

identifying a splice point in the program stream;

switching to the advertising stream; and

outputting an ad-inserted stream that includes frames from the program stream and advertising stream,

whereby the program stream and advertising stream are adaptively synchronized by aligning the splice points to enhance the quality of video transmission.

5. (Cancelled).

6. (Cancelled).

7. (Currently Amended) The method according to claim 1, wherein the step of transmitting comprises multicasting the program streams via the switched communication network.

8. (Original) The method according to claim 7, further comprising the step of transmitting the ad-inserted streams to subscribers via a digital subscriber line (DSL) interface.

9. (Original) The method according to claim 7, further comprising the step of transmitting the ad-inserted streams to subscribers via an Ethernet interface.

10. (Original) The method according to claim 1, wherein the program streams supplied by the head end node include program streams provided to the head end node from a remote source and program streams provided to the head end node from a local source.

11. (Previously Presented) The method according to claim 1, wherein the step of inserting one or more advertisements includes:

receiving subscriber management information; and

selecting a particular advertisement based on the subscriber management information; and

retrieving the particular advertisement at the one or more egress nodes.

12. In a video distribution network including a head end node, one or more egress nodes, a service management system, and an ATM-based switched communication network, wherein the head end node supplies N program streams encapsulated in Internet Protocol (IP) packets via the switched communication network to the one or more egress nodes, a system for delivering video comprising:

at an egress node,

a router for receiving the N program streams,

a storage element for storing advertisements, and

a splicer element for inserting $N \times M$ stored advertisements into the N program streams for delivery to individual subscribers, where N and M are integers and where M represents the number of demographic groupings of the individual subscribers,

wherein a particular subscriber receives a program stream with an advertisement that corresponds to demographic characteristics of that particular subscriber.

13. (Original) The system according to claim 12, wherein the one or more program streams include splice points and wherein the splicer element splices an advertising stream with a program stream, wherein the advertising stream includes one or more stored advertisements.

14. (Original) The system according to claim 13, wherein the splicer element comprises:

a plurality of input processors, one of the plurality of input processors receiving the program stream and another of the plurality of input processors receiving the advertising stream;

a plurality of data buffers, each of the plurality of data buffers coupled to a corresponding one of the plurality of input processors; and

at least one output processor coupled to the plurality of data buffers,

wherein, responsive to a splice point being identified in the advertising stream, one of the plurality of data buffers stores frames after the splice point in the advertising stream, and wherein, responsive to a splice point being

identified in the program stream, the at least one output processor switches to the advertising stream so that a single bitstream is provided as output that includes frames from the program stream and advertising stream.

15. (Cancelled).

16. (Cancelled).

17. (Currently Amended) The system according to claim 12, wherein the program streams are distributed via multicasting in the switched communication network.

18. (Original) The system according to claim 17, wherein the ad-inserted streams are distributed to subscribers via an interface selected from the group consisting of a digital subscriber line (DSL) interface and an Ethernet interface.

19. (Original) The system according to claim 12, wherein the service management system provides subscriber management information to the egress node and, responsive to the subscriber management information, the egress node selects and retrieves a particular advertisement from the storage element based on the subscriber management information.

20. A system for delivering video via an ATM-based switched communication network comprising:

a head end node for transmitting one or more program streams encapsulated in Internet Protocol (IP) packets via the switched network; and

at least one egress node for receiving the one or more program streams, the egress node including a splicer element for inserting one or more advertisements into the one or more program streams at the egress node for delivery to individual subscribers, such that a particular subscriber receives a program stream with an advertisement that corresponds to demographic characteristics of that particular subscriber.

21. (Original) The system according to claim 20, wherein the head end node comprises:

an encoder for receiving and encoding the program streams;

an encapsulator for converting the encoded program streams into a format for transmission via the switched communication network; and

a service management system in communication with the encoder, the encapsulator and the switched communication network for provisioning and managing distribution of video and demographically-targeted advertising.

22. (Original) The system according to claim 21, wherein the head end node further comprises a storage element for storing encoded program streams for time-delayed delivery.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.